IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 8320 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE D.P.BUCH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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PANNABEN BALDEVBHAI PATEL

Versus

THE STATE OF GUJARAT

Appearance:

1. Criminal Misc.Application No. 8320 of 2001

MR PM DAVE for Petitioner No. 1-2

Mr V M Pancholi, APP for Respondent No. 1

NOTICE SERVED BY DS for Respondent No. 2-3

CORAM : MR.JUSTICE D.P.BUCH

Date of decision: 05/04/2002

ORAL JUDGEMENT

Rule. Mr V M Pancholi, learned APP waives service of rule on behalf of respondents No. 1 and 3.

It is reported by the Investigating Officer that respondent No.2 is present before the Court. On enquiry it is found that he is present in the Court and on hearing him, it is noticed that he has no objection if the two petitioners stay together and the order for search warrant is quashed.

2. It is also noticed that second respondent had filed a Habeas Corpus petition being Special Criminal Application No.886/2001 and there also the two petitioners were present before the Court and the first petitioner had disclosed to the court that she had married the second petitioner and she wanted to stay with the second petitioner. The petition was therefore, disposed of. Even at page No.1, the Memorandum of Marriage has been placed on record. It shows that the two petitioners have married on 5.9.2001.

3. In the aforesaid view of the matter, the order of search warrant will not survive and, therefore, it is required to be quashed and set aside. For the foregoing reasons, this application is allowed. The order passed by the learned Judicial Magistrate First Class, Dholka in criminal misc. application No.214/2001 for issuance of search warrant under section 97 of the Criminal Procedure Code is ordered to be quashed and set aside.

Rule is made absolute to the aforesaid extent. D.S. permitted.

5.4.2002 [D P Buch, J.]
msp